

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JIMMY B. WHEAT §
VS. § CIVIL ACTION NO. 1:09cv571
REGINALD GOINGS, ET AL. §

MEMORANDUM ORDER PARTIALLY ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Jimmy B. Wheat, an inmate formerly at the Larry Gist State Jail, proceeding *pro se*, brought the above-styled lawsuit pursuant to 42 U.S.C. § 1983.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends this action be dismissed for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

Plaintiff was also ordered to either pay the filing fee or submit an application to proceed *in forma pauperis*. Plaintiff failed to comply with the order of the court.¹ Accordingly, the

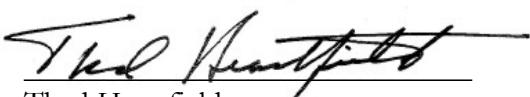
¹ Plaintiff filed a motion for extension of time to comply with the order; however, he failed to comply with the order. A recent review of the TDCJ Inmate Locator indicates plaintiff is no longer confined. However, plaintiff has failed to notify the court of a current address at which he may be contacted. Accordingly, the complaint should be dismissed for want of prosecution.

Report will be adopted to the extent it recommended dismissal without prejudice.

O R D E R

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED** to the extent it recommends dismissal. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

SIGNED this the **16** day of **March, 2010**.



Thad Heartfield
United States District Judge